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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/711,850 | 10/08/2004 | Randal Scott Turner | | 5849 |

7590

01/24/2006

Mr.Randal Scott Turner
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EXAMINER

GRILES, BETHANY L

ART UNIT

PAPER NUMBER

3643

DATE MAILED: 01/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|---|--|
| Office Action Summary | Application No. 10/711,850 | Applicant(s) TURNER, RANDAL SCOTT | |
| | Examiner Bethany L. Griles | Art Unit 3643 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 5-7 is/are rejected.
- 7) ☒ Claim(s) 3,4 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2, 6, and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Each claim attempts to claim other forms of either lighting, tail fin shapes, or materials, and it is unclear exactly what is being claimed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pierce US4823497 in view of Kim et al. US6098331.

Regarding claim 1, Pierce discloses a fishing lure that has both a chemiluminescent chamber 28 and scent attractant chamber 26 that are connected in one lure to attract fish of which has a lead incased plastic cap 14 or tip which connects to the main body which is comprised of polypropylene or like material (col 4, line43) and has a hollow

Art Unit: 3643

tubular chamber for housing a chemiluminescent ampoule (col 5, lines 1-2) and activating chemical and is connected to the tail portion of the lure which has a tubular hollow chamber within and curved tail fins 24, 40 and contains a sponge (col 4, line 55) or like fibrous material which is immersed in fish attractant liquid and said lure will spins in a clockwise direction while water to flow into a small hole at the top (top of element 28) side chamber and gradually extrudes fish attractant out of a smaller hole at the bottom side portion of the said bottom hollow chamber which produces a trail of fish attractant oil or liquid as the lure is retrieved (col 5, lines 48-52).

Pierce does not disclose that the housing is connected to the tail portion via a screw type threads.

Kim et al. disclose a housing 120 connected to a tail portion 140 via a threaded portion 160.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Kim et al. to the invention of Pierce of a multi-part fishing lure in order to make the different chambers easily accessible to the user, but secure when in a closed position.

Regarding claim 2, Pierce discloses the lure of claim 1 wherein the main body chamber that encapsulates chemiluminescent lighting and could encapsulate any form of lighting including battery powered lighting, as it would be possible to place a battery powered light in chamber 28.

Regarding claim 5, Pierce discloses the lure of claim 1 wherein the smaller chamber 26 retains fish attractant fluid and two small holes (at either end of element 26) that allow

Art Unit: 3643

water to flow into the top upper hole mixing with fish attractant liquid then is released out of the bottom smaller lower hole.

Regarding claim 6, Pierce discloses the lure of claim 1 wherein it has tail fin apparatus that come in different sizes and shapes 24, 40 that are curved to produce a spinning effect (col 6, line 16) when said lure is retrieved through the water and is not limited to pictured tail fin shapes, but include all tail fin shapes which will actuate a spinning motion.

Regarding claim 7, Pierce discloses the lure of claim 1 wherein the materials used to manufacture said lure could consist of any like materials (col 4, line 43) and is not limited to lead plastics and metals.

Allowable Subject Matter

Claims 3 and 4 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ruffin et al. US6668482 ; Kato US6941696 ; Lovell, Jr. US5172510; Hopson US5471780.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bethany L. Griles whose telephone number is 571.272.6888. The examiner can normally be reached on Wednesday and Thursday, 5.30 am-2.00 pm.

Art Unit: 3643

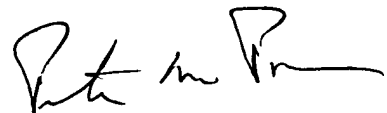
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571.272.6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Bethany L. Griles
Examiner
Art Unit 3643

blg



Peter M. Poon
Supervisory Patent Examiner
Technology Center 3600

1/19/06